

**BOARD OF GAME AND INLAND FISHERIES MEETING MINUTES
4000 WEST BROAD STREET
RICHMOND, VIRGINIA**

AUGUST 18, 2005, 9:00 a.m.

PRESENT: Sherry Smith Crumley, Chairman, William T. Greer (left 12:00 noon), John W. Montgomery, Jr., Richard E. Railey, Jr., C. T. Hill, Charles S. Yates, Thomas A. Stroup, Jimmy Hazel; **ABSENT:** C. Marshall Davison (schedule conflict), C. Will McNeely (personal illness), Randy J. Kozuch (flight delayed); **LEGAL COUNSEL:** Roger Chaffe, **SENIOR STAFF:** Colonel W. Gerald Massengill, Mike Bise, Raymond E. Davis, Bob Duncan, Gary Martel, Charlie Sledd, Jeff Uerz, David Whitehurst

Chairman Crumley called the meeting to order at 9:05 a.m. Mr. Railey read the Agency's mission statement into the meeting minutes and the Pledge of Allegiance to the Flag was recited. Because of the lengthy agenda, the announced meeting agenda was amended and Ms. Crumley noted that a closed session would be convened upon the Board's return from its lunch break (to allow the public more time for lunch to insure that they did not miss any discussion on regulatory changes). The Chairman announced that a quorum was present.

Chairman Crumley introduced the three new members of the Board: Dr. William T. Greer, Norfolk, Virginia (representing the Second Congressional District), C. T. Hill, Richmond, Virginia (representing the Seventh Congressional District), and Thomas A. Stroup, Great Falls, Virginia (representing the Tenth Congressional District).

Ms. Crumley announced to improve accessibility to the public, Board members now have an email address through the Department's Website. Individual addresses are located on the Department's Website and linked to "About VDGIF".

At the request of the Bath County Board of Supervisors, each member received a copy of a letter from the County Administrator that was addressed to Colonel Massengill, Will McNeely and Chairman Crumley requesting by resolution that crossbow hunting and "Got Game" not be allowed in the County of Bath.

1. Public Comment, Non-Agenda Items: Chairman Crumley provided an opportunity for the public to address the Board on topics outside of the announced meeting agenda. She reminded speakers that five minutes would be allowed to those representing a group. Individuals were requested to limit their remarks to three minutes or less.

Kim Hosen, Woodbridge, Virginia, representing the Prince William Conservation Alliance, spoke in support of the Comprehensive Wildlife Conservation Strategy. She also informed the Board about the availability of a tract of land in Northern Virginia known as Merrimac Farms. The farm is located in Nokesville. Ms. Hosen asked the Board to consider partnering with others to help preserve the site for public access, but noted that any acquisitions would have to be

completed within 90 days. An informational handout on the property was provided to each member of the Board.

2. Recognition of Employees and Others: Allen Boynton, representing the Virginia Chapter of The Wildlife Society presented David Whitehurst with the Henry Mosby Award. Mr. Whitehurst was recognized for his professionalism, leadership and substantial contributions to Virginia through his efforts to obtain enhanced funding for wildlife conservation and the development of the statewide Wildlife and Birding trail.

3. Minutes of Meeting: The minutes of the July 28, 2005 meeting have been posted on the Department's Website and were distributed to Board members with the meeting briefing materials. Chairman Crumley called for any additions or corrections to the minutes. As there were none, **Mr. Hazel moved, seconded by Mr. Montgomery, passed unanimously in a show of hands vote, to approve the minutes as written. (Ayes: Hazel, Montgomery, Greer, Railey, Crumley, Hill, Yates, and Stroup)**

4. Committee Reports: Chairman Crumley requested the recently appointed members of the Board to share with her their preferences for committee assignments.

Audit Committee: Mr. Montgomery reported that the Audit Committee met August 9 and reviewed July 2005 small purchase card activity. Due to the number of cards that were inactive during the report period, the Committee felt that a department-wide review of the small purchase cards is needed to insure that employees have the appropriate spending limits. Additionally, the Audit Committee is developing guidelines on spending limits and card assignments that will be incorporated into the Board's governance manual.

Governance Committee: Mr. Hazel reported that the Governance Committee has not met since July 28, 2005, however staff has developed some draft policy and governance materials for review. Copies were distributed to Board members and they were requested to review and edit the materials as necessary. David Whitehurst has been assigned to work with the Governance Committee.

Policy Committee: Mr. Yates reported that the Policy Committee met August 17. The committee revisited the response to the corrective action plan and found that it is on schedule for addressing the work needed. Suggested policy needs submitted by Division Directors have been reviewed, and Board members were requested to share ideas with the Committee on policies they feel are needed.

The Policy Committee's next meeting will be October 26, 2005, and its goal is to complete its work by December 31, 2005. Gary Martel has been assigned to work with the Policy Committee.

Search Committee: Mr. Montgomery announced that the Search Committee is now accepting applications for the director of the Department of Game and Inland Fisheries. During its August 18 meeting, a revised timeline for completion of the recruitment was distributed and the recording secretary was requested to provide a copy of that material to all members of the Board.

The Committee's goal is to announce the new Director at the March 2006 meeting, and to have the new director assume his responsibilities by the late April 2006 meeting.

The Department's Website includes information on the vacancy and other relevant topics. Candidates for the vacancy will submit applications to the Department of Human Resource Management. They will receive an acknowledgement letter that will direct them to the Website for additional information regarding the process and the Department.

5. Comprehensive Wildlife Conservation Strategy: David Whitehurst and Becky Wajda presented an overview of this plan that is the result of an agency-wide effort along with input from citizens, professional organizations, the conservation community, and other state and federal agencies. Virginia Commonwealth University provided facilitation assistance to the project. The plan responds to a federal mandate and once approved by the Board will be sent to the U. S. Fish and Wildlife Service for review and endorsement, with the overall objective being to secure more stable funding for conservation projects and wildlife habitat enhancement for species of special needs.

The strategy addresses eight essential elements: species of greatest conservation need, habitat assessment, problems facing wildlife and habitat, conservation actions, monitoring and adaptive management, plan review and revision, coordination with agencies and organizations, and public input and participation. A list of 925 species, crossing all of the taxonomic groups, was identified as being of the greatest conservation need. Public outreach and input has also been obtained throughout the development of this strategy.

Key themes throughout the project included: there is a need for greater coordination across agencies with private landowners and other entities regarding critical conservation issues, improved communication with and education of policy makers at all levels of government, increased funding forum for participation and conservation programs, review and revise existing regulations and standards, establish dedicated permanent funding for conservation of all wildlife, and encourage counties and municipalities to more comprehensively consider wildlife and their habitats in their planning and development.

After Board discussion, Chairman Crumley called for public comment on the topic.

Nikki Rovner, Richmond, Virginia, representing The Nature Conservancy, commented that the strategy was an enormous undertaking and that it was requested by Congress in response to requests received for increased funding for nongame and wildlife management. She encouraged a cooperative effort on the part of all interest groups to insure successful implementation of the strategy.

Frank Fulgham, Richmond, Virginia, representing the Virginia Department of Agriculture and Consumer Services, expressed total support of the comprehensive wildlife conservation strategy and emphasized that it needs to be implemented and executed. He also encouraged cooperation among all interest groups to insure its success.

Mr. Montgomery moved, seconded by Mr. Hill, passed unanimously in a show of hands vote, that the Board endorse the comprehensive wildlife conservation strategy as presented. (Ayes: Montgomery, Hill, Greer, Railey, Crumley, Yates, Stroup and Hazel)

Chairman Crumley announced a short break at 10:30 and the meeting reconvened at 10:35 a.m.

6. Migratory Waterfowl Seasons: Bob Duncan presented the following federal framework and staff recommendations for the 2005-2006 migratory waterfowl seasons. Department staff held a public input meeting on August 2, and the attendees supported staff recommendations for season dates and bag limits. The final federal framework will not be available until the end of September 2005. The framework and staff recommendations have been posted on the Department's website for public review.

Federal Framework—General Duck Season: The framework allows for a three-way split season with no zones. The outside dates for general duck seasons are September 24, 2005 through January 28, 2006, with a season of no more than 60 hunting days plus two consecutive youth waterfowl hunting days outside of the general duck season, with a daily bag limit of 6 ducks, and may include no more than 4 mallards (only two of which may be hen mallards), 2 scaup, 4 scoters, 2 wood ducks, 2 redheads, 1 black duck, 1 mottled duck, 1 fulvous whistling duck, 1 pintail, and 1 canvasback for up to 30 days. The possession limit is twice the daily bag limit. The season is closed on Harlequin ducks. Shooting hours are one-half hour before sunrise until sunset daily.

Merganser Seasons: Option A provides for a 60 hunting days season (September 24, 2005 through January 25, 2006) with a daily bag limit of five birds, of which only one bird may be a hooded merganser (10 in possession, only two of which may be hooded mergansers). Option B would include mergansers in the general duck bag.

Special Sea Duck Season (in sea duck zone), Scoter, Long-Tailed Duck, and Eider: A 107-hunting day season is allowed between September 15, 2005 and January 28, 2006, with a bag limit of 7 birds daily (14 in possession), but may include no more than 4 scoters (8 in possession).

Coot, Gallinule and Moorhen: Coot: The framework allows a 60-hunting day season between September 24, 2005 and January 28, 2006, with a bag limit of 15 birds daily (30 in possession).

Gallinule/Moorhen: The framework allows for a 70-hunting days season between September 1, 2005 and January 20, 2006, with a bag limit of 15 daily (30 in possession).

Canada Goose (Western Zone): The regular season, of up to 40 hunting days, may be held between November 15, 2005 and January 14, 2006. The extended season dates are January 15, 2005 through February 15, 2006. The bag limit is 2 per day through January 14, 5 per day from January 15 through February 15.

Atlantic Population Zone: A two-way split season, up to 45 hunting days, may be held between November 15, 2005 and January 31, 2006. The bag limit is 2 per day.

The framework allows for a season to be held on Back Bay during the last 15 days of Virginia's Atlantic Population Zone Season (no zones). The bag limit is one goose per day.

Snow Goose and Atlantic Brant Seasons: Snow Goose: A three-way split season is allowed (up to 107 hunting days) between October 1, 2005 and March 10, 2006, with a bag limit of 15 birds daily (no possession limit).

Atlantic Brant: A two-way split season (up to 30 hunting days) may be held between September 24, 2005 and January 31, 2006. The bag limit is 2 birds daily, 4 in possession.

Tundra Swan Season: Virginia's Department of Game and Inland Fisheries may issue no more than 600 permits to holders of a valid Virginia hunting license. States must obtain harvest and hunter participation data. A 90-day hunting season may be selected between October 1, 2005 and January 31, 2006, with a bag limit of one bird per permittee per season. Permit conditions must be observed by permittees.

Falconry: The framework provides for a 107-hawking days season, not to exceed three segments in any extended season outside the regulation season, between September 1, 2005 and March 10, 2006. The bag limit is 3 daily (6 in possession). Federal Law prohibits falconry for waterfowl on Sunday.

Staff Recommendations: General Duck Seasons: Staff recommended a 60-hunting day season, plus 1 youth waterfowl hunting day. The first segment is October 6-10 (changed from staff's original recommendation of October 5-8, 2005 as a result of public preference; black duck, pintail and canvasback closed). The Youth Waterfowl Hunting Day is October 22. The second segment is November 19-December 3, 2005 (canvasback closed), and the third segment is December 10, 2005 through January 28, 2006 (canvasback open only December 26, 2005 through January 28, 2006). The daily bag limit is 5 ducks, which may include no more than 4 mallards (which may include no more than 2 hen mallards), 2 scaup, 4 scoters, 2 wood ducks, 2 redheads, 1 mottled duck, 1 fulvous whistling duck, 1 black duck (except closed during October 6-10), 1 canvasback (during open season December 26, 2005 through January 28, 2006), 1 pintail. The season is closed on Harlequin duck. The possession limit is twice the daily bag limit. Unless otherwise noted, shooting hours are one-half hour before sunrise until sunset daily.

Merganser Season: Staff recommended Option A to coincide with the general duck season. The bag limit is 5 birds daily, of which only 1 bird may be a hooded merganser (10 in possession, only 2 of which may be hooded mergansers).

Special Sea Duck Season: (Scoter, long-tailed duck, and eider): The proposed season dates were October 5, 2005 (changed to October 6 as a result of public preference) through January 28, 2006, with a bag limit of 7 birds daily (14 in possession) but may include no more than 4 scoters (8 in possession). The Sea Duck Zone is those waters at a distance greater than 800 yards from any shore, island or emergent vegetation in the following areas: the ocean waters of Virginia, the tidal waters of Northampton and Accomack counties, and the Chesapeake Bay and each of its

tributaries up to the first highway bridge. Back Bay and its tributaries are not included in the Sea Duck Zone.

Coot, Merganser, Gallinule and Moorhen seasons: **Coot:** Staff recommended that the coot season coincide with the general duck season, with a bag limit of 15 birds daily (30 in possession).

Gallinule/Moorhen: A three-way split season was recommended (October 6-10, 2005, as amended, November 19 through December 3, 2005 and December 10, 2005 through January 20, 2006) with a bag limit of 15 daily (30 in possession).

Canada Goose Season, western zone: A two-way regular season was recommended (November 19-December 3, 2005, December 15, 2005 through January 14, 2006). The extended season dates are January 16 through February 15, 2006. The bag limit is 2 geese per day from November 19 through December 3, 2005 and December 15, 2005 through January 14, 2006. The bag limit is 5 geese per day from January 16 through February 15, 2006.

Atlantic Population Zone: Season dates are November 19 through December 3, 2005 and December 23, 2005 through January 28, 2006, with a bag limit of 2 geese per day in both segments.

Back Bay: The season dates are January 12 through January 28, 2006, with a bag limit of one goose per day on the waters of Back Bay and North Landing River.

Snow Goose and Atlantic Brant Seasons: **Snow Goose:** A three-way split, 107 hunting-days season was recommended, opening October 26 through December 3, December 10, 2005 through January 28, 2006 and February 4, 2006 through March 10, 2006. The bag limit is 15 birds daily, no possession limit.

Atlantic Brant season dates recommended are December 26, 2005 through January 28, 2006, with a bag limit of 2 birds daily, 4 in possession.

Tundra Swan: Season dates recommended are December 1, 2005 through January 31, 2006. The hunt area is all counties and portions of counties lying east of U.S. Route I-95 and south of the Prince William/Stafford County line in Chopawamsic Creek at Quantico Marine Corps Base. The Department of Game and Inland Fisheries may issue no more than 600 permits to holders of valid Virginia hunting licenses. The bag limit is 1 bird per permittee. All permit conditions must be obeyed.

Falconry: Staff recommended a season of 107-hawking days, with no combination of falconry and firearms hunting to exceed 107 days for any species. The bag limit is 3 daily. Season dates will coincide with other migratory waterfowl seasons for Virginia.

Ducks, Mergansers, Coots, Moorhens and Gallinules: Season dates of October 6-10 (changed from proposed dates as a result of public comment heard) and November 19, 2005 through February 28, 2006 were recommended.

Canada Goose season dates recommended are November 19, 2005 through February 18, 2006.

A three-way split **Snow Goose and Brant** season was recommended for falconry (October 26 through December 3, 2005, December 10, 2005 through January 28, 2006 and February 4 through March 10, 2006).

After Board discussion, Chairman Crumley called for public comment.

Robert Woolfolk, Bumpass, Virginia preferred changing the four-day duck season from October 5-8 to October 6-10, 2005, which would include the Columbus Day holiday. He also requested that the season open the second week in October instead of the first week in October.

Lanny Woolfolk, Bumpass, Virginia asked the Board to change the opening dates for the general duck season to include the Columbus Day holiday.

Mr. Railey moved, seconded by Mr. Montgomery, passed unanimously in a show of hands vote, that the season dates for the duck season be changed to include the Columbus Day holiday (October 6-10, 2005). (Ayes: Railey, Montgomery, Greer, Hill, Crumley, Yates, Stroup and Hazel)

Mr. Hill moved, seconded by Mr. Stroup, passed unanimously in a show of hands vote, that the Board adopt the proposed migratory waterfowl seasons, as recommended and amended. (Ayes: Hill, Stroup, Greer, Montgomery, Railey, Yates, Crumley and Hazel)

7. Wildlife Regulation Proposals: Charlie Sledd presented an overview of the periodic review and amendment process for regulations. The process began in October 2004. Public input has been solicited on regulation issues and the Board received an overview of the identified issues at its March 24, 2005 meeting. Additionally, input has been received via the Department's Website.

Additionally, statewide public input meetings will be held to review regulation proposals being advertised for public comment. The public input meetings will be held between August 29 and September 26, 2005. The Board intends to take final action on the advertised proposals at its October 27, 2005 meeting.

Board members were reminded that any ex parte comments heard on regulation proposals must be reported in open session of a Board meeting.

Boating Regulations: Amend 4 VAC 15-430-40 to clarify that a personal flotation device condition, size and fit, and approval marking must conform to U. S. Coast Guard requirements and they must be used in accordance with any requirements or restrictions on the approval label.

Amend 4 VAC 15-430-160 to clarify that in addition to being approved by the U. S. Coast Guard, all hand-portable fire extinguishers, semiportable fire extinguishing systems, and fixed

fire extinguishing systems for use aboard vessels, shall have an efficient charge and be in good and serviceable condition, and required to be of a type approved by the U. S. Coast Guard.

Amend 4 VAC 15-380-70 and Add 4 VAC 15-380-71 to allow the owner of a federally documented vessel otherwise exempt from Virginia motorboat numbering requirements to nonetheless apply for the issuance of motorboat registration decals, pay the same fees as prescribed in 4 VAC 15-380-120 to register a boat, and receive non-transferable decals which may be affixed to a window or windshield on the sides of the vessel. This is a voluntary requirement for documented vessel owners.

Mr. Yates moved, seconded by Dr. Greer, passed unanimously in a show of hands vote, that the Board approve staff recommendations for changes to boating regulations for advertisement for public comment. (Ayes: Yates, Greer, Montgomery, Railey, Crumley, Hill, Stroup and Hazel)

Fishing Regulations: Gary Martel presented staff recommendations for changes to fisheries regulation proposals. **Amend 4 VAC 15-320-25** to (i) remove the special bass length limits on Lake Anna, Beaverdam Creek Reservoir (Loudoun County), Chesdin Reservoir/Appomattox River, and Occoquon Reservoir, (ii) expand the “No bass 14 to 22 inches, only one bass per day longer than 22 inches” regulation to the entire James River from the confluence of the Jackson and Cowpasture Rivers (Alleghany County) downstream to the 14th Street Bridge in Richmond, (iii) expand the “No bass 14 to 20 inches, only one bass per day longer than 20 inches” regulation to the entire New River in Virginia from Fields Dam (Grayson County) downstream to the Virginia.-West Virginia state line, not including Claytor Lake, (iv) extend the upper end of the “No bass less than 20 inches, only one bass per day longer than 20 inches” regulation section on the North Fork Holston River so that the river section now runs from the Route 91 Bridge upstream of Saltville, Virginia downstream to the Virginia-Tennessee state line, (v) establish a “2 per day, no striped bass less than 26 inches (October 1 - May 31) and 4 per day, no length limit (June 1 – September 30)” striped bass regulation on Buggs Island (Kerr) Reservoir, (vi) establish a “2 per day, no striped bass 26 to 36 inches (October 1 - May 31) and 4 per day, no length limit (June 1 – September 30)” striped bass regulation on Smith Mountain Lake, (vii) modify the creel and length limits for anadromous (coastal) striped bass in the Meherrin, Nottoway, Blackwater (Chowan Drainage), North Landing and Northwest Rivers and their tributaries plus Back Bay from “4 per day, no length limits” to “2 per day, no striped bass less than 18 inches”, (viii) establish a “no walleye less than 18 inches” regulation in Philpott Reservoir, (ix) establish a “1 per day, no muskellunge less than 42 inches” muskellunge regulation on New River from Fields Dam (Grayson County) downstream to the Virginia-West Virginia state line, including Claytor Lake, (x) add white catfish to the Creel and Length Limit Table along with other catfish, (xi) add an “only 1 blue catfish per day longer than 32 inches” regulation to existing catfish limits, (xii) establish an American shad and hickory shad “10 per day in the aggregate, no length limit” regulation on the Meherrin River below Emporia Dam, and the Nottoway, Blackwater, North Landing and Northwest Rivers, and their tributaries plus Back Bay, (xiii) establish an anadromous (coastal) alewife and blueback herring “no daily limits, no length limits” regulation on the Meherrin River below Emporia Dam, and the Nottoway, Blackwater, North Landing and Northwest Rivers, and their tributaries plus Back Bay, and (xiv) add references, in the Creel and Length Limit Table, to the Endangered and Threatened Species

regulation and the Nonnative (Exotic) Animals regulation , and adds 4 VAC 15-360-10 (Taking aquatic invertebrates, amphibians, reptiles and nongame fish), 4 VAC 15-20-130 (Endangered and threatened species, adoption of federal list, additional species enumerated, and 4 VAC 15-30-40 (Importation requirements, possession and sale of nonnative (exotic animals) to the creel and length limits table in 4-VAC 15-310-25.

Amend **4 VAC 15-330-50** to remove Philpott Reservoir from the waters that have a special 16-inch minimum size limit on trout.

Amend **4 VAC 15-330-140** to add Cabin Creek in Grayson County, within the Grayson Highland State Park, to the “9-inch minimum size (no trout less than 9 inches), only artificial lures with single hooks” special trout regulation streams.

Amend **3 VAC 15-330-160** to expand the current 2.3-mile section to an 11.4-mile section of Chestnut Creek (Carroll County) and add a 2.7-mile section of Peak Creek (Pulaski County) to delayed harvest (catch and release from October 1 through May 31; trout may be creeled from June 1 through September 30) trout streams.

Amend **4 VAC 15-330-10** to remove Northwest River (Chesapeake) and Nottoway River (Southampton County) from places where haul seines can be used to take nongame fish for sale and add the American and hickory shad harvest limit of 10 per day in the aggregate.

Amend **4 VAC 15-340-30** to remove Nottoway River (Southampton County) from the places where gill nets can be used to take non-game fish, and add the anadromous American and hickory shad harvest limit of 10 per day in the aggregate.

Amend **4 VAC 15-340-40** to add text that directs the reader to 4 VAC 15-320-25 for creel limits on shad and herring, clarifies that there is no limit on mullet, and directs the reader to the proper section for sucker limits.

Amend **4 VAC 15-360-10** to add text that directs the reader to 4 VAC 15-320-25 for creel (possession) limits on the following nongame fish: anadromous blueback herring, alewife, American shad, and hickory shad; channel, white, flathead, and blue catfish.

There was no Board discussion on staff recommendations.

Chairman Crumley called for public comment. **Chris Harris, Richmond, Virginia** and **Jeff Bourne, Richmond, Virginia** had signed up to speak but they were not present when recognized.

Mitchell Grant, Mechanicsville, Virginia indicated that his questions had been answered.

Mr. Hill moved, seconded by Mr. Railey, passed unanimously in a show of hands vote, that the Board approve staff recommendations for fisheries regulation changes for advertisement for public comment. (Ayes: Hill, Railey, Montgomery, Crumley, Yates, Stroup and Railey)

Prior to recessing for lunch at 12:10 p.m., **Mr. Hazel moved, seconded by Mr. Yates, passed unanimously in a show of hands vote, that the Board go into closed session pursuant to § 2.2-3711 A.3 of the Code of Virginia for discussion or consideration of the acquisition of real property for a public purpose or for the disposition of publicly held real property with respect to a status report on previously approved property acquisitions in the City of Chesapeake, and the counties of Appomattox, Buckingham, Prince Edward, and a status report on possible property acquisitions in Northern Virginia and Southwest Virginia, and further, pursuant to §2.2-3711 A.1 of the Code of Virginia for discussion or consideration of employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or the resignation of specific public officers, appointees or employees of the Department of Game and Inland Fisheries specifically regarding the performance of the interim director. (Ayes: Hazel, Yates, Montgomery, Railey, Crumley, Hill and Stroup)**

In open session at 2:10 p.m., **Mr. Hazel certified, seconded by Mr. Yates, passed unanimously, in a show of hands vote, that whereas the Board of Game and Inland Fisheries had convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act, and whereas § 2.2-3712.D of the Code requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law, now, therefore, be it resolved that the Board of Game and Inland Fisheries hereby certifies that (i) to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applied, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board. (Ayes: Hazel, Yates, Montgomery, Railey, Crumley, Hill and Stroup).**

Ms. Crumley read into the record a memorandum being sent to the Chief of Staff, The Honorable William H. Leighty on the Interim Executive Director's Tenure and Compensation.

"The Board of Game and Inland Fisheries has begun its search for a new Executive Director. Advertisements similar to the attached display ad will begin appearing in publications and electronic media in the near future. The Board's goal is to announce its selection by March 2006.

During this transition period, the Department is fortunate to have Colonel Massengill as its Interim Executive Director. The Board's recruitment and selection schedule will necessarily require his services for a longer period than initially anticipated. For this reason, the Board believes it would be prudent to secure Colonel Massengill's continuing services through an employment contract or other suitable means that would obligate him to remain in our employment until April 2006.

In order to secure a commitment from Colonel Massengill, the Board also proposes that effective July 1, 2005 that Colonel Massengill be provided semi-monthly compensation of \$5,122, a level that more closely approximates his former salary as Superintendent of State Police. The contract would replace his hourly pay rate and provide for more direct compensation but no benefits. As you can well imagine, this arrangement provides the required leadership we need and a

significant cost savings to the Board and the Agency since no benefits payments are being made. The Board understands the change in his compensation is subject to the Governor's approval pursuant to authority granted in § 4-6.01 of the Appropriations Act.

Thank you for your attention to this request. The Board of Game and Inland Fisheries appreciates the support it receives from the Office of the Governor. Signed, Sherry Smith Crumley, Chair

Mr. Montgomery moved, seconded by Mr. Hill, passed unanimously in a show of hands vote to authorize the Chair to negotiate with Colonel Massengill for continued employment as interim director at a pay rate not to exceed semi-monthly compensation in the amount of \$5,122, retroactive to July 1, 2005, and further that the Chair be authorized to contract with Colonel Massengill for continued employment as an interim director subject to approval by the Governor's Office. (Ayes: Montgomery, Hill, Railey, Crumley, Yates, Stroup and Hazel)

Wildlife Diversity Regulations: David Whitehurst presented staff recommendations for wildlife diversity regulation amendments.

Add **4 VAC 15-20-210** to specifically define a select list of species as "nonindigenous aquatic nuisance species" (black carp, New Zealand mudsnail and rusty crayfish). Staff indicated that it may request the Board to implement an earlier effective date than July 1, 2006, for this regulation amendment.

Amend **4 VAC 15-30-40** to limit the importation, possession, and sale of several nonnative aquatic species, including those designated as nonindigenous aquatic nuisance species and to allow anglers to legally harvest snakehead fish with certain requirements (quagga mussel, New Zealand mudsnail, rusty crayfish and Australian crayfish). Staff indicated that it intends to request the Board to implement an earlier effective date than July 1, 2006, for this regulation amendment.

Amend **4 VAC 15-20-130** to update the Virginia List of Endangered and Threatened Species by adding four species to the list, to adopt current taxonomic nomenclature regarding several species, and to correct spelling errors (spider elimia, Appalachian springsnail, springsnail, and green floater).

Amend **4 VAC 15-360-10** to (i) limit the size of salamanders used as fish bait; (ii) remove personal possession limits for selected species (eastern hellbender, diamondback terrapin, spotted turtle and candy darter); (iii) limit the sale of crayfish as bait, and (iv) add the Nottoway River to the areas in which the collection of freshwater mussels is prohibited without a permit.

Amend **4 VAC 15-360-30** and add **4 VAC 15-360-70** to remove the provision for the taking of crayfish for sale, except as amended during board discussion to allow the sale of crayfish for personal consumption.

Board members discussed the regulation that would prohibit the import of live crayfish and were told that it was not the intent of the regulation to prohibit personal consumption use.

Chairman Crumley called for public comment on wildlife diversity regulation amendments and there were none.

Mr. Montgomery moved, seconded by Mr. Hill, passed unanimously in a show of hands vote, to approve staff recommendations as amended (4 VAC 15-20-210 and 4 VAC 15-30-40 will have an effective dates of January 1, 2006, and 4 VAC 15-360-70 will allow the importation of crayfish for personal consumption) for advertisement for public comment. (Ayes: Montgomery, Hill, Railey, Crumley, Yates, Stroup and Hazel)

Wildlife Regulations: Bob Duncan presented staff recommendations for amendments to wildlife regulations.

Deer: Amend **4 VAC 15-90-70** to (i) open all of Buchanan, Dickenson, and Wise counties to either-sex deer hunting during the early and late archery seasons except for the PALS (Public Access Lands) located in Dickenson County which would remain buck only deer hunting during all seasons (archery, muzzleloading, and firearms); (ii) remove wording referencing crossbow hunting by disabled deer hunters; (iii) change from May 1 to April 1 the deadline for localities to notify the Department of their intent to participate in or opt out of the urban archery season; and (iv) provides the cities and towns within Buchanan, Dickenson and Wise counties the opportunity to participate in the urban archery season by removing them from the exception.

Amend **4 VAC 15-90-80** to (i) establish the opening date of the late muzzleloading season 18 hunting days prior to the first Saturday in January to standardize for a three-week season length in all years; (ii) remove the early muzzleloading either sex deer hunting day on public lands in Grayson County making the early muzzleloading season for Grayson County buck only; (iii) allow for full season either sex deer hunting during the early special muzzleloader season on private lands in Clarke, Frederick and Warren counties while maintaining the one either sex deer day on national forest lands in Frederick and Warren counties, and (iv) allow for full season either sex deer hunting during the late muzzleloading season in Warren County while maintaining six days of either sex deer hunting on national forest lands in Warren County, and (v) allow for the use of smokeless powder during the special muzzleloading season.

Amend **4 VAC 15-90-90** to (i) remove the reference to effective dates in Section A and B since they are no longer relevant and (ii) require that at least one antlered buck meet a specified antler restriction criteria in Shenandoah County.

Add a new section **4 VAC 15-90-292** to replace 12 current separate either-sex firearms section regulations including 4 VAC 15-90-100, 4 VAC 15-90-110, 4 VAC 15-90-120, 4 VAC 15-90-121, 4 VAC 15-90-141, 4 VAC 15-90-160, 4 VAC 15-90-170, 4 VAC 15-90-190, 4 VAC 15-90-195, 4 VAC 15-90-200, 4 VAC 15-90-210 and 4 VAC 15-90-220, and includes a working change that will make sure that the opening day of the Chesapeake, Suffolk (east) and Virginia Beach October 1 firearms deer season is not an either-sex deer hunting day. Doe days will

increase in 47 different counties, decrease on private lands in three counties and decrease on public lands in five counties.

Add a new section **4 VAC 15-90-22** to provide an extended deer firearms season in the counties of Fairfax, Loudoun, and Prince William from the Monday following the first Saturday in January to the first Saturday in February and provides further that only antlerless deer may be legal to take during this extended season.

Add a new section **4 VAC 15-90-291** to establish the height and other characteristics of an enclosed or fenced area that prevents or impedes the free egress of deer, as provided for in Code of Virginia § 29.1-525.1 which generally prohibits the construction of enclosures to confine deer or the hunting of deer within a fenced area (61 inches or lower allowed).

Add a new section **4 VAC 15-90-293** to create a Chronic Wasting Disease (CWD) carcass importation regulation prohibiting the importation of whole deer carcasses and specific carcass parts from CWD positive states or CWD positive Canadian provinces. Additionally, it will require those persons that import permitted deer parts to notify the Department if they are notified of a positive CWD test.

Add a new section **4 VAC 15-40-285** to make it illegal to feed or attract deer from September 1 through the first Saturday in January statewide and further make it illegal upon written notification by the Department for any person to continue feeding or attracting deer during this period.

Bear: Amend **4 VAC 15-50-71** to allow for the use of smokeless powder during the special muzzleloading bear hunting season.

Amend **4 VAC 15-50-110** to expand the hound-hunting area during the existing two-week bear season in additional portions of Grayson, Wythe, and Carroll counties.

Amend **4 VAC 15-50-120** to (i) change the opening date of the western bear-hound training season to the second Saturday in August, and (ii) open four counties (Brunswick, Greensville, Lunenburg, and Mecklenburg) in the southeast Piedmont to a bear hound training season from the first Monday in December and for 11 consecutive hunting days following, both dates inclusive, except bear dog training will be prohibited on Sundays in these four counties.

Small Game: Amend **4 VAC 15-120-10** to change the opening date of the grouse season from the last Monday in October to the Saturday prior to the last Monday in October and extend the grouse hunting season to the end of February.

Amend **4 VAC 15-190-10** to change the opening date of the quail season from the second Monday in November to the Saturday prior to the second Monday in November.

Amend **4 VAC 15-200-10** to change the opening date of the rabbit season from the first Monday in November to the Saturday prior to the first Monday in November.

Add a new section **4 VAC 15-230-21** to create a gray and red squirrel season that would extend from the first Saturday in June through the third Saturday in June. The season would be open only on selected wildlife management areas.

Add a new section **4 VAC 15-230-61** to create a fox squirrel season that would extend from the first Saturday in June through the third Saturday in June. The season would be open only on selected wildlife management areas.

Rescind **4 VAC 15-230-40** that allowed a special squirrel archery season.

Turkey: Amend **4 VAC 15-240-10** to change the opening date for the general (six-week) fall turkey season from the last Monday in October to the Saturday prior to the last Monday in October. The first segment of the season would be open for 11 consecutive hunting days following the opening Saturday.

Amend **4 VAC 15-240-20** to change the opening date for the fall turkey season in certain counties and areas with a two-week fall season from the last Monday in October to the Saturday prior to the last Monday. The season would be open for 11 consecutive hunting days following the opening Saturday.

Amend **4 VAC 15-240-31** to change the opening date for the four-week fall turkey season in certain counties and areas from the last Monday in October to the Saturday prior to the last Monday in October. The early segment of this season would be open for 11 consecutive hunting days following the opening Saturday.

Furbearer: Amend **4 VAC 15-70-10** to change the season ending date for bobcat hunting from January 31 to the last day in February.

Add a new section **4 VAC 15-70-60** to establish a special archery season for bobcats.

Amend **4 VAC 15-110-20** to change the season ending date for fox hunting with guns from January 31 to the last day in February and further changes the reference to guns to firearms.

Add a new section **4 VAC 15-170-21** to open a trapping season for river otter in certain counties west of the Blue Ridge Mountains with a season limit of 2 otters per trapper and further requires the entire skinned carcass must be presented to an agent of the department within 3 days of capture.

Amend **4 VAC 15-210-10** to provide a continuous open season for chasing raccoon with dogs in counties and portions of counties east of Route 29 and Route 15. Currently, the raccoon chase season is open during all months except June and July.

Amend **4 VAC 15-210-20** to move the eastern boundary line of the ten-month western raccoon chase season on private lands to Route 29 and Route 15 in certain counties and to further include Fairystone Farms, G. Richard Thompson, Rapidan, and Turkeycock Wildlife Management Areas into this season.

General Regulations: Amend 4 VAC 15-40-30 to (i) add bobcats to the list of species that can be taken by the use or aid of recorded animal or bird calls or sounds, and (ii) to permit the use of electronic calls on department-owned wildlife management areas unless otherwise posted.

Amend 4 VAC 15-40-200 to increase the maximum jaw spread from 5” to 6 ½” for baited body gripping traps set above ground when enclosed in a dog-proof box on private lands with landowner’s permission.

Nuisance Wildlife: Amend 4 VAC 15-20-160 to add the U. S. Fish and Wildlife Service list of 125 non-native bird species as defined in the Migratory Bird Treaty Reform Act of 2005 and federally regulated under 50 CFR 10.13 to the list of bird species designated as nuisance species in Virginia.

Amend 4 VAC 15-30-40 to add the mute swan to the list of bird species that are illegal to import, possess or sell in Virginia without a permit. Staff recommended a December 1, 2005 effective date for this regulation amendment.

During Board discussion, Mr. Yates recommended, and Mr. Hazel concurred, that the Board advertise to extend the grouse hunting season to the end of February. Staff did not oppose this request.

Chairman Crumley called for public comment on wildlife regulation amendments.

Dr. Bob Talbert, Powhatan, Virginia, representing the Central Virginia Chapter of Quail Unlimited supported staff’s proposal to move the Saturday opening date for quail. He also supported the proposal to continue the season through January 31. He also offered to continue to support any staff effort to improve quail numbers.

Bryan Nelson, Shenandoah, Virginia, representing the Virginia Trappers Association, thanked staff for its willingness to work with the Virginia Trappers Association on issues that affect trapping. He indicated that the Virginia Trappers Association opposed the proposed amendments to 4 VAC 15-210-10 to establish a year-round raccoon chase season.

Mr. Nelson requested the Board to advertise for public comment a regulation amendment that would increase the maximum jaw spread for baited, body gripping traps above ground from 5 inches to 6 ½ inches. The traps would have to be placed inside a dog-proof box. He proposed that use of baited traps would require the written permission of the landowner. Staff did not oppose this requested amendment.

W. G. (Sonny) Pruitt, Mechanicsville, Virginia, representing the Virginia Predator Callers Association, asked the Board to support the extension of the bobcat and fox seasons to the end of February.

Este Fisher, Mt. Crawford, Virginia, representing the Virginia Bear Hunters Association, supported the establishment of the Bear Regulatory Advisory Committee that consists of

Department staff, U. S. Forest Service staff and members of the Virginia Bear Hunters Association. The Association supported staff recommendations for bear regulation amendments.

John Bellemore, representing the George Washington and Jefferson National Forests referenced four identified threats to the national forests. A threat not addressed is the unmanaged and unauthorized use of motorized vehicles on national forest lands. He indicated also that problems still exist regarding the feeding of bear, deer and turkeys on national forest lands. Additionally, the Forest Service still experiences road management problems, and with the establishment of the bear hound training season, the Service has experienced increased vandalism to its gates, and they have experienced illegal and unauthorized use of its roads closed for resource protection.

He asked the Board to support the amended bear hound training season recommendation as presented by staff (opening the second Saturday in August). This proposal would establish an extended bear hound training season for two years and would allow Department and Forest Service staff to work with the bear hunting public to increase their awareness of unacceptable activities that occur during this season. He suggested if significant improvements are not achieved during the two-year period, the Forest Service would seek Board support to reduce and/or eliminate the bear hound training season.

James Massie, III, Madison Heights, Virginia, representing the United Eastern Virginia Coonhunters Association, supported staff's recommendation for a year- round raccoon chase season east of U.S. 29 and Route 15.

Dennis Campbell, Waynesboro, Virginia, representing the Shenandoah Valley Chapter of Quality Deer Management (Q.D.M.) Association, requested the Board to support a regulation proposal for a long-term study by the establishment of a Q.D.M. program in Shenandoah County. The proposal was to harvest a white-tail buck with four points on one side or a 15-inch spread. He felt that to achieve the desired results, the study would require five years and that the Shenandoah County program could serve as a model for future statewide Q.D.M. programs in Virginia.

Staff presented an overview of the level of support for a Q.D.M. program that has been obtained via public surveys. Three separate surveys have been conducted, and all failed to achieve the desired hunter approval ratio of 67%. However, staff agreed that Q.D.M. is an important issue that is not widely supported due to a lack of interest in passing up big bucks. Landowners by a ratio of 76% favored Q.D.M.

Staff could support a recommendation for a Q.D.M. compromise by advertising for public comment a proposal for Shenandoah County only that no more than one of the two buck limit could have less than four points one inch or longer on one side of the antlers.

Unidentified speaker from the floor supporting a Q.D.M. program opposed a compromise on the Q.D.M. issue. He felt strongly that a full program should be implemented to demonstrate its benefits. He also stated that the supporters of Q.D.M. would not object to youth being exempted from any Q.D.M. requirements.

David Sexton, Oakwood, Virginia, representing the Southwest Virginia Coonhunters Federation, requested a year-round raccoon chase season in the western part of the state. Staff responded that it could not support this request because of bear hound training season issues.

Bruce Clevenger, Winchester, Virginia requested the Board to advertise for public comment a regulation amendment that would allow for the use of smokeless powder during the muzzleloader season. He referenced an excerpt from a Savage Arms publication in support of his position. He stated further that smokeless powder is legal for use in surrounding states. Although staff was concerned about safety issues, it stated that it did not oppose advertising a regulation amendment to allow for the use of smokeless powder.

Mr. Montgomery moved, seconded by Mr. Hazel, passed unanimously in a show of hands vote, to advertise for public comment a regulation amendment to allow for the use of smokeless powder during the special muzzleloading season. (Ayes: Montgomery, Hazel, Railey, Crumley, Hill, Yates and Stroup)

Mr. Railey moved, seconded by Mr. Montgomery, passed unanimously in a show of hands vote to advertise for public comment a regulation amendment to establish a compromise Q.D.M. program for Shenandoah County. (Ayes: Railey, Montgomery, Hazel, Hill, Crumley, Stroup and Yates)

Mr. Railey moved, seconded by Mr. Montgomery, passed unanimously in a show of hands vote, that the Board approve for advertisement for public comment, amendments to deer regulations. (Ayes: Railey, Montgomery Crumley, Hill, Yates, Stroup and Hazel)

Mr. Montgomery moved, seconded by Mr. Hill, passed unanimously in a show of hands vote to advertise for public comment staff recommendations for amendments to the bear hound training season, as modified with an opening date of the second Saturday in August.

Mr. Hill moved, seconded by Mr. Montgomery, passed unanimously in a show of hands vote, that the Board advertise for public comment amendments to small game regulations, as modified to extend the grouse hunting season to the end of February. (Ayes: Hill, Montgomery, Railey, Crumley, Yates, Stroup and Hazel)

Mr. Montgomery moved, seconded by Mr. Yates, passed unanimously in a show of hands vote, that the Board advertise for public comment, proposed turkey regulation amendments to establish a Saturday opening date. (Ayes: Montgomery, Yates, Railey, Crumley, Hill, Stroup and Hazel)

Mr. Yates moved, seconded by Mr. Montgomery, passed unanimously in a show of hands vote, to advertise for public comment amendments for furbearer regulations. (Ayes: Yates, Montgomery, Railey, Hill, Crumley, Stroup and Hazel)

Mr. Montgomery moved, seconded by Mr. Stroup, passed unanimously in a show of hands vote, to advertise for public comment general regulation amendments regarding the use of

animal calls and to allow a 6 ½ inch conniver trap when used above ground in a dog proof enclosure. (Ayes: Montgomery, Stroup, Railey, Crumley, Hill, Yates and Hazel)

Mr. Hazel moved, seconded by Mr. Montgomery, passed unanimously in a show of hands vote, that the Board advertise for public comment regulation amendments to adopt the 125 species list including mute swans and to prohibit the importation and possession of mute swans without a permits. (Ayes: Hazel, Montgomery, Railey, Crumley, Hill, Yates and Stroup)

8. Meeting Schedule: A proposed 2006 meeting schedule was distributed to Board members in the briefing package. However, several members had notified office staff that they had conflicts with Thursday meeting dates. Therefore, the schedule was adjusted to establish a Tuesday Board meeting date and the following dates were presented for the Board's consideration: January 17, 2006, March 21, 2006, April 25, 2006, June 20, 2006, August 22, 2006, October 17, 2006 and December 12, 2006.

Mr. Montgomery moved, seconded by Mr. Yates, passed unanimously in a show of hands vote, to establish the 2006 meeting schedule as amended and referenced above. (Ayes: Montgomery, Yates, Hill, Crumley, Stroup and Hazel)

Staff expressed a concern that the webless migratory game bird season framework would not be available for a June 20, 2006 meeting, and noted that seasons could be established and changed if necessary to meet framework requirements.

9. Financial Report: A financial status report was sent to Board members prior to the meeting, and Ray Davis presented a brief overview of revenue and expenditures to date. He noted that cash receipts were down by \$1.0 million from 2005 receipts, primarily due to a decrease in boat titling and registration transactions.

An end of the year completion date is anticipated for two capital projects; the construction of the Marion regional office and the renovations of the King and Queen Fish Hatchery.

Several members have requested a revised financial report format and Colonel Massengill indicated that staff would work to develop a format to address the concerns heard.

10. Chairman's Remarks: The Chairman did not offer any additional topics for discussion.

11. Director's Report: Colonel Massengill requested Bob Ellis to present an overview of the state's mandatory migratory waterfowl conservation stamp (duck stamp). Mr. Ellis indicated that the stamp was authorized by the 2005 General Assembly and it is required of all persons 16 years of age or older hunting or taking any migratory waterfowl (ducks, geese, brant and swans) within the Commonwealth, beginning with the 2005-2006 waterfowl seasons. The enabling legislation was the results of requests heard from waterfowl hunters to establish a stamp where the proceeds could be used to benefit waterfowl and waterfowl habitat across the state. There are approximately 20,000 waterfowl hunters in the state and it is projected that the stamp will generate approximately \$180,000 in revenue, and the revenue will go into a duck stamp fund that

has to be used for waterfowl projects that come from nonprofit organizations and/or department waterfowl habitat enhancement projects. It can also be used to cover the administrative costs for developing the stamp.

Colonel Massengill reported that he has visited Smith Mountain Lake to become better acquainted with its law enforcement issues. He also attended a law enforcement regional meeting in Southwest Virginia.

Colonel Massengill reported that the Department has created a workgroup, in cooperation with Quail Unlimited, to further evaluate issues pertaining to Virginia's diminishing quail population.

Adjournment: Chairman Crumley announced that the next Board of Game and Inland Fisheries meeting will be held September 22, 2005, beginning at 9:00 a.m., in Richmond.

As there was no further business, **Mr. Yates moved adjournment, seconded by Mr. Montgomery, passed unanimously in a show of hands vote. (Ayes: Yates, Montgomery, Railey, Crumley, Hill, Stroup and Hazel)**

Respectfully submitted,

Belle Harding
Recording Secretary